

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-1418V

UNPUBLISHED

JESUS GARCIA,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: February 25, 2021

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Influenza (Flu) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

John Robert Howie, Howie Law, PC, Dallas, TX, for petitioner.

Emilie Williams, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

On September 16, 2019, Jesus Garcia filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”), which meets the Table definition for SIRVA, or, in the alternative, was caused-in-fact by the influenza vaccine he received on December 1, 2017. Petition at 1 ¶¶ 1, 38. Petitioner further alleges that he received the vaccination in the United States, suffered the residual effects of his SIRVA for more than six months, and that he has not filed a civil action or received an award or settlement for his SIRVA, alleged as vaccine-caused. *Id.* at ¶¶ 1, 36-37. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On February 25, 2021, Respondent filed a Rule 4(c) Report³ in which he concedes that Petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report and Proffer at 1. Specifically, Respondent "has concluded that [P]etitioner's claim meets the Table criteria for SIRVA . . . [and] is entitled to a presumption of vaccine causation." *Id.* at 3-4.

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Respondent filed a combined Rule 4 Report and Proffer. ECF No. 22. A Decision Awarding Damages based upon the Proffer also will be issued today.